

**IN THE UNITED STATES DISTRICT COURT
OF THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

**ROSE CHISM AS SURVIVING SPOUSE §
OF EDWARD CHISM, DECEASED**

VS. § CIVIL ACTION NO. 2:04cv51

**COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION §**

MEMORANDUM ORDER

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Caroline M. Craven pursuant to 28 U.S.C. § 636. The Report of the Magistrate Judge which contains her proposed findings of fact and recommendations for the disposition of such action has been presented for consideration. Plaintiff filed objections to the Report and Recommendation. The Court conducted a *de novo* review of the Magistrate Judge's findings and conclusions.

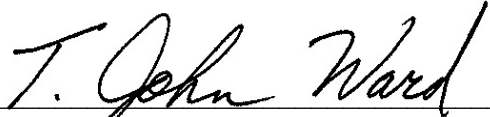
Plaintiff objects to the Magistrate Judge's recommendation that Plaintiff's above-entitled and numbered social security cause of action be affirmed. Specifically, Plaintiff asserts Plaintiff's residual functional capacity was not consistent with his ability to perform light work. In his objections, Plaintiff informed the Court for the first time that Plaintiff is now deceased. All the briefing had been completed prior to Plaintiff's death August 11, 2004, and the briefing was never supplemented informing the Court of Plaintiff's death. Thus, the Report and Recommendation contains no reference to Plaintiff's death.

Even with this information and after reviewing the transcript, the briefs of the parties, and

the Report and Recommendation, the Court finds Plaintiff's objections are without merit. The Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Therefore, the Court hereby adopts the Report of the United States Magistrate Judge as the findings and conclusions of this Court. Accordingly, it is hereby

ORDERED that the above-entitled Social Security action is **AFFIRMED**.

SIGNED this 27th day of November, 2006.



T. JOHN WARD
UNITED STATES DISTRICT JUDGE